

(A) filing, not later than 30 days after the date of the order, a notice of appeal in—

- (i) the United States court of appeals for the circuit in which the person resides or carries on business; or
- (ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) Record

The Secretary shall file promptly in the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) Standard of review

A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than \$500 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the order.

(f) Failure to pay penalties

If a person fails to pay a valid civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 103-407, § 8, Oct. 22, 1994, 108 Stat. 4224.)

§ 7108. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

- (1) for the effective administration of this chapter; or
- (2) to determine whether any person subject to this chapter has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this chapter, or of any order or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

For the purpose of any investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records. The court may issue an order requiring the person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation.

(d) Contempt

Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) Process

Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(Pub. L. 103-407, § 9, Oct. 22, 1994, 108 Stat. 4226.)

§ 7109. Administrative provisions

(a) Construction

Nothing in this chapter preempts or supercedes any other program relating to sheep promotion, research, or information organized and operated under the laws of the United States or any State.

(b) Amendments to orders

The provisions of this chapter applicable to an order shall be applicable to amendments to the order, except that the Secretary is not required to conduct a referendum on a proposed amendment to an order.

(Pub. L. 103-407, § 10, Oct. 22, 1994, 108 Stat. 4226.)

§ 7110. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 103-407, § 11, Oct. 22, 1994, 108 Stat. 4226.)

§ 7111. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this chapter.

(b) Administrative expenses

Funds appropriated under subsection (a) of this section shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this chapter.

(Pub. L. 103-407, § 12, Oct. 22, 1994, 108 Stat. 4226.)

CHAPTER 100—AGRICULTURAL MARKET TRANSITION

SUBCHAPTER I—SHORT TITLE, PURPOSE, AND DEFINITIONS

Sec.

7201.

Short title and purpose.

(a) Short title.

- | | |
|--|---|
| <p>Sec. (b) Purpose.</p> <p>7202. Definitions.</p> <p style="text-align: center;">SUBCHAPTER II—PRODUCTION FLEXIBILITY CONTRACTS</p> <p>7211. Authorization for use of production flexibility contracts.</p> <p style="margin-left: 20px;">(a) Offer and terms.</p> <p style="margin-left: 20px;">(b) Eligible owners and producers described.</p> <p style="margin-left: 20px;">(c) Tenants and sharecroppers.</p> <p style="margin-left: 20px;">(d) Eligible cropland described.</p> <p style="margin-left: 20px;">(e) Quantity of eligible cropland covered by contract.</p> <p style="margin-left: 20px;">(f) Voluntary reduction in contract acreage.</p> <p>7212. Elements of contracts.</p> <p style="margin-left: 20px;">(a) Time for contracting.</p> <p style="margin-left: 20px;">(b) Duration of contract.</p> <p style="margin-left: 20px;">(c) Estimation of contract payments.</p> <p style="margin-left: 20px;">(d) Time for payment.</p> <p>7213. Amounts available for contract payments.</p> <p style="margin-left: 20px;">(a) Fiscal year amounts.</p> <p style="margin-left: 20px;">(b) Allocation.</p> <p style="margin-left: 20px;">(c) Adjustment.</p> <p style="margin-left: 20px;">(d) Additional rice allocation.</p> <p style="margin-left: 20px;">(e) Exclusion of certain amounts from contract payments.</p> <p style="margin-left: 20px;">(f) Effect of payment limitation.</p> <p>7214. Determination of contract payments under contracts.</p> <p style="margin-left: 20px;">(a) Individual payment quantity of contract commodities.</p> <p style="margin-left: 20px;">(b) Annual payment quantity of contract commodities.</p> <p style="margin-left: 20px;">(c) Annual payment rate.</p> <p style="margin-left: 20px;">(d) Annual payment amount.</p> <p style="margin-left: 20px;">(e) Reduction in payment amount.</p> <p style="margin-left: 20px;">(f) Assignment of contract payments.</p> <p style="margin-left: 20px;">(g) Sharing of contract payments.</p> <p>7215. Applicability of payment limitations.</p> <p>7216. Violations of contract.</p> <p style="margin-left: 20px;">(a) Termination of contract for violation.</p> <p style="margin-left: 20px;">(b) Refund or adjustment.</p> <p style="margin-left: 20px;">(c) Foreclosure.</p> <p style="margin-left: 20px;">(d) Review.</p> <p>7217. Transfer or change of interest in lands subject to contract.</p> <p style="margin-left: 20px;">(a) Termination.</p> <p style="margin-left: 20px;">(b) Modification.</p> <p style="margin-left: 20px;">(c) Exception.</p> <p>7218. Planting flexibility.</p> <p style="margin-left: 20px;">(a) Permitted crops.</p> <p style="margin-left: 20px;">(b) Limitations and exceptions regarding fruits and vegetables.</p> <p style="text-align: center;">SUBCHAPTER III—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS</p> <p>7231. Availability of nonrecourse marketing assistance loans.</p> <p style="margin-left: 20px;">(a) Nonrecourse loans available.</p> <p style="margin-left: 20px;">(b) Eligible production.</p> <p style="margin-left: 20px;">(c) Compliance with conservation and wetlands requirements.</p> <p style="margin-left: 20px;">(d) Additional outlays prohibited.</p> <p>7232. Loan rates for marketing assistance loans.</p> <p style="margin-left: 20px;">(a) Wheat.</p> <p style="margin-left: 20px;">(b) Feed grains.</p> <p style="margin-left: 20px;">(c) Upland cotton.</p> <p style="margin-left: 20px;">(d) Extra long staple cotton.</p> <p style="margin-left: 20px;">(e) Rice.</p> <p style="margin-left: 20px;">(f) Oilseeds.</p> <p>7233. Term of loans.</p> <p style="margin-left: 20px;">(a) Term of loan.</p> <p style="margin-left: 20px;">(b) Special rule for cotton.</p> <p style="margin-left: 20px;">(c) Extensions prohibited.</p> <p>7234. Repayment of loans.</p> <p style="margin-left: 20px;">(a) Repayment rates for wheat, feed grains, and oilseeds.</p> | <p>Sec.</p> <p style="margin-left: 20px;">(b) Repayment rates for upland cotton and rice.</p> <p style="margin-left: 20px;">(c) Repayment rates for extra long staple cotton.</p> <p style="margin-left: 20px;">(d) Prevailing world market price.</p> <p style="margin-left: 20px;">(e) Adjustment of prevailing world market price for upland cotton.</p> <p>7235. Loan deficiency payments.</p> <p style="margin-left: 20px;">(a) Availability of loan deficiency payments.</p> <p style="margin-left: 20px;">(b) Computation.</p> <p style="margin-left: 20px;">(c) Loan payment rate.</p> <p style="margin-left: 20px;">(d) Exception for extra long staple cotton.</p> <p>7236. Special marketing loan provisions for upland cotton.</p> <p style="margin-left: 20px;">(a) Cotton user marketing certificates.</p> <p style="margin-left: 20px;">(b) Special import quota.</p> <p style="margin-left: 20px;">(c) Limited global import quota for upland cotton.</p> <p>7236a. Special competitive provisions for extra long staple cotton.</p> <p style="margin-left: 20px;">(a) Competitiveness program.</p> <p style="margin-left: 20px;">(b) Payments under program; trigger.</p> <p style="margin-left: 20px;">(c) Eligible recipients.</p> <p style="margin-left: 20px;">(d) Payment amount.</p> <p style="margin-left: 20px;">(e) Form of payment.</p> <p>7237. Availability of recourse loans for high moisture feed grains and seed cotton and other fibers.</p> <p style="margin-left: 20px;">(a) High moisture feed grains.</p> <p style="margin-left: 20px;">(b) Recourse loans available for seed cotton.</p> <p style="margin-left: 20px;">(c) Recourse loans available for mohair.</p> <p style="margin-left: 20px;">(d) Repayment rates.</p> <p style="text-align: center;">SUBCHAPTER IV—OTHER COMMODITIES</p> <p style="text-align: center;">PART A—DAIRY</p> <p>7251. Milk price support program.</p> <p style="margin-left: 20px;">(a) Support activities.</p> <p style="margin-left: 20px;">(b) Rate.</p> <p style="margin-left: 20px;">(c) Purchase prices.</p> <p style="margin-left: 20px;">(d) Special rule for butter and nonfat dry milk purchase prices.</p> <p style="margin-left: 20px;">(e) Refunds of 1995 and 1996 assessments.</p> <p style="margin-left: 20px;">(f) Commodity Credit Corporation.</p> <p style="margin-left: 20px;">(g) Omitted.</p> <p style="margin-left: 20px;">(h) Period of effectiveness.</p> <p>7252. Recourse loan program for commercial processors of dairy products.</p> <p style="margin-left: 20px;">(a) Recourse loans available.</p> <p style="margin-left: 20px;">(b) Amount of loan.</p> <p style="margin-left: 20px;">(c) Period of loan.</p> <p style="margin-left: 20px;">(d) "Eligible dairy products" defined.</p> <p style="margin-left: 20px;">(e) Effective date.</p> <p>7253. Consolidation and reform of Federal milk marketing orders.</p> <p style="margin-left: 20px;">(a) Amendment of orders.</p> <p style="margin-left: 20px;">(b) Expedited process.</p> <p style="margin-left: 20px;">(c) Failure to timely consolidate orders.</p> <p style="margin-left: 20px;">(d) Report regarding further reforms.</p> <p>7254. Effect on fluid milk standards in State of California.</p> <p>7255. Milk manufacturing marketing adjustment.</p> <p style="margin-left: 20px;">(a) Maximum allowances established.</p> <p style="margin-left: 20px;">(b) "Manufacturing allowance" defined.</p> <p style="margin-left: 20px;">(c) Effect of violation.</p> <p style="margin-left: 20px;">(d) Effective date; implementation.</p> <p>7256. Northeast Interstate Dairy Compact.</p> <p>7257. Authority to assist in establishment and maintenance of one or more export trading companies.</p> <p>7258. Standby authority to indicate entity best suited to provide international market development and export services.</p> <p style="margin-left: 20px;">(a) Indication of entity best suited to assist international market development for and export of United States dairy products.</p> |
|--|---|

- Sec.
- (b) Funding of export activities.
(c) Application of section.
7259. Study and report regarding potential impact of Uruguay Round on prices, income, and government purchases.
(a) Study.
(b) Report.
(c) Rule of construction.
- PART B—PEANUTS AND SUGAR
7271. Peanut program.
(a) Quota peanuts.
(b) Additional peanuts.
(c) Area marketing associations.
(d) Losses.
(e) Disapproval of quotas.
(f) Quality improvement.
(g) Marketing assessment.
(h) Crops.
7272. Sugar program.
(a) Sugarcane.
(b) Sugar beets.
(c) Reduction in loan rates.
(d) Term of loans.
(e) Loan type; processor assurances.
(f) Marketing assessment.
(g) Forfeiture penalty.
(h) Information reporting.
(i) Crops.
- SUBCHAPTER V—ADMINISTRATION
7281. Administration.
(a) Use of Commodity Credit Corporation.
(b) Omitted.
(c) Determinations by Secretary.
(d) Regulations.
7282. Adjustments of loans.
(a) Adjustment authority.
(b) Manner of adjustment.
(c) Adjustment on county basis.
7283. Commodity Credit Corporation interest rate.
7284. Personal liability of producers for deficiencies.
(a) In general.
(b) Limitations.
(c) Acquisition of collateral.
(d) Sugarcane and sugar beets.
7285. Commodity Credit Corporation sales price restrictions.
(a) General sales authority.
(b) Nonapplication of sales price restrictions.
(c) Presidential disaster areas.
(d) Efficient operations.
7286. Commodity certificates.
(a) In general.
(b) Methods of payment.
(c) Administration.
- SUBCHAPTER VI—PERMANENT PRICE SUPPORT AUTHORITY
7301. Suspension and repeal of permanent price support authority.
(a) Agricultural Adjustment Act of 1938.
(b) Agricultural Act of 1949.
(c) Suspension of certain quota provisions.
7302. Effect of chapter.
(a) Effect on prior crops.
(b) Liability.
- SUBCHAPTER VII—COMMISSION ON 21ST CENTURY PRODUCTION AGRICULTURE
7311. Establishment.
7312. Composition.
(a) Membership and appointment.
(b) Qualifications.
(c) Term of members; vacancies.

- Sec.
- (d) Time for appointment; first meeting.
(e) Chairperson.
7313. Comprehensive review of past and future of production agriculture.
(a) Initial review.
(b) Subsequent review.
(c) Recommendations.
7314. Reports.
(a) Report on initial review.
(b) Report on subsequent review.
7315. Powers.
(a) Hearings.
(b) Assistance from other agencies.
(c) Mail.
(d) Assistance from Secretary.
7316. Commission procedures.
(a) Meetings.
(b) Quorum.
7317. Personnel matters.
(a) Compensation.
(b) Staff.
(c) Detailed personnel.
7318. Termination of Commission.
- SUBCHAPTER VIII—MISCELLANEOUS COMMODITY PROVISIONS
7331. Options pilot program.
(a) Pilot programs authorized.
(b) Distribution of pilot program.
(c) Eligible participants.
(d) Notice to producers.
(e) Contracts.
(f) Eligible markets.
(g) Recordkeeping.
(h) Use of Commodity Credit Corporation.
7332. Risk management education.
7333. Administration and operation of noninsured crop assistance program.
(a) Operation and administration of program.
(b) Application for noninsured crop disaster assistance.
(c) Loss requirements.
(d) Payment.
(e) Yield determinations.
(f) Contract payments.
(g) Use of Commodity Credit Corporation.
(h) Exclusions.
(i) Payment and income limitations.
7334. Flood risk reduction.
(a) In general.
(b) Duties of producers.
(c) Duties of Secretary.
(d) Commodity Credit Corporation.
(e) Additional payments.
(f) Limitation on payments.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1308, 1308-3, 1508, 7334 of this title; title 16 sections 3811, 3821, 3839bb.

SUBCHAPTER I—SHORT TITLE, PURPOSE, AND DEFINITIONS

§ 7201. Short title and purpose

(a) Short title

This chapter may be cited as the “Agricultural Market Transition Act”.

(b) Purpose

It is the purpose of this chapter—

(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensur-

ing continued compliance with farm conservation and wetland protection requirements;

(2) to make nonrecourse marketing assistance loans and loan deficiency payments available for certain crops;

(3) to improve the operation of farm programs for milk, peanuts, and sugar; and

(4) to establish a commission to undertake a comprehensive review of past and future production agriculture in the United States.

(Pub. L. 104-127, title I, §101, Apr. 4, 1996, 110 Stat. 896.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, which enacted this chapter and section 6933 of this title, amended sections 1308, 1308-1, 1308-3, 1358-1, 1358b, 1358c, 1359a, 1373, 1441, 1445j, 1508, 1516, 4504, 6401, 6402, 6413, 6414, and 6932 of this title and sections 713a-14, 714b, 714i, and 714k of Title 15, Commerce and Trade, repealed sections 1426, 1433f, 1441-2, 1444-2, 1444f, 1445b-3a, 1445c-3, 1445h, 1446e to 1446h, and 1519 of this title, enacted provisions set out as notes under sections 1373, 1446e, 1446e-1, and 1508 of this title, and repealed provisions set out as a note under section 1421 of this title. For complete classification of title I to the Code, see Tables.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-228, §1, Aug. 12, 1998, 112 Stat. 1516, provided that: “This Act [amending section 7212 of this title] may be cited as the ‘Emergency Farm Financial Relief Act’.”

SHORT TITLE

Section 1(a) of Pub. L. 104-127 provided that: “This Act [see Tables for classification] may be cited as the ‘Federal Agriculture Improvement and Reform Act of 1996’.”

SEVERABILITY

Section 928 of Pub. L. 104-127 provided that: “If any provision of this Act [see Short Title note above] or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.”

§ 7202. Definitions

In this chapter:

(1) Agricultural Act of 1949

Except in section 7301 of this title, the term “Agricultural Act of 1949” means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 7301(b)(1) of this title.

(2) Considered planted

The term “considered planted” means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) and such other acreage as the Secretary considers fair and equitable.

(3) Contract

The terms “contract” and “production flexibility contract” mean a production flexibility contract entered into under section 7211 of this title.

(4) Contract acreage

The term “contract acreage” means 1 or more crop acreage bases established for con-

tract commodities under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) that would have been in effect for the 1996 crop (but for suspension under section 7301(b)(1) of this title).

(5) Contract commodity

The term “contract commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(6) Contract payment

The term “contract payment” means a payment made under this subchapter¹ pursuant to a contract.

(7) Department

The term “Department” means the Department of Agriculture.

(8) Extra long staple cotton

The term “extra long staple cotton” means cotton that—

(A) is produced from pure strain varieties of the *Barbadense* species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(9) Farm program payment yield

The term “farm program payment yield” means the farm program payment yield established for the 1995 crop of a contract commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465). The Secretary shall adjust the farm program payment yield for the 1995 crop of a contract commodity to account for any additional yield payments made with respect to that crop under subsection (b)(2) of the section.

(10) Loan commodity

The term “loan commodity” means each contract commodity, extra long staple cotton, and oilseed.

(11) Oilseed

The term “oilseed” means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(12) Producer

The term “producer” means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

¹ So in original. Probably should be “chapter”.

(13) Secretary

The term “Secretary” means the Secretary of Agriculture.

(14) State

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) United States

The term “United States”, when used in a geographical sense, means all of the States.

(Pub. L. 104-127, title I, §102, Apr. 4, 1996, 110 Stat. 897.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 7201 of this title.

The Agricultural Act of 1949, referred to in pars. (1), (2), and (4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. Title V of the Act, which was classified generally to subchapter IV (§1461 et seq.) of chapter 35A of this title, was omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465), referred to in par. (9), was omitted from the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

**SUBCHAPTER II—PRODUCTION
FLEXIBILITY CONTRACTS**

§ 7211. Authorization for use of production flexibility contracts

(a) Offer and terms

The Secretary shall offer to enter into a production flexibility contract with an eligible owner or producer described in subsection (b) of this section on a farm containing eligible cropland. Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments, to—

(1) comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(2) comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(3) comply with the planting flexibility requirements of section 7218 of this title; and

(4) use the land subject to the contract for an agricultural or related activity, but not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(b) Eligible owners and producers described

The following producers and owners shall be eligible to enter into a contract:

(1) An owner of eligible cropland who assumes all or a part of the risk of producing a crop.

(2) A producer (other than an owner) on eligible cropland with a share-rent lease of the eligible cropland, regardless of the length of the lease, if the owner enters into the same contract.

(3) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring on or after September 30, 2002, in which case the owner is not required to enter into the contract.

(4) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring before September 30, 2002. The owner of the eligible cropland may also enter into the same contract. If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner is required.

(5) An owner of eligible cropland who cash rents the eligible cropland and the lease term expires before September 30, 2002, if the tenant declines to enter into a contract. In the case of an owner covered by this paragraph, contract payments shall not begin under a contract until the lease held by the tenant ends.

(6) An owner or producer described in any preceding paragraph regardless of whether the owner or producer purchased catastrophic risk protection for a 1996 crop under section 1508(b) of this title.

(c) Tenants and sharecroppers

In carrying out this subchapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(d) Eligible cropland described

Land shall be considered to be cropland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in section 7212(a)(2) of this title.

(e) Quantity of eligible cropland covered by contract

Subject to subsection (b)(4) of this section, an owner or producer may enroll as contract acreage all or a portion of the eligible cropland on the farm.

(f) Voluntary reduction in contract acreage

Subject to subsection (b)(4) of this section, an owner or producer who enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

(Pub. L. 104-127, title I, §111, Apr. 4, 1996, 110 Stat. 898.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (a)(1), (2), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354,

as amended. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

This subchapter, referred to in subsec. (c), was in the original “this subtitle”, meaning subtitle B (§§111–118) of title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 898, which enacted this subchapter and amended sections 1308, 1308–1, and 1308–3 of this title. For complete classification of subtitle B to the Code, see Tables.

Sections 101B, 103B, 105B, and 107B of the Agricultural Act of 1949, referred to in subsec. (d)(1), were classified to sections 1441–2, 1444–2, 1444f, and 1445b–3a, respectively, of this title prior to repeal by section 7301(b)(2)(A)–(D) of this title.

VIOLATION OF CONTRACT; DENIAL OF FUNDS FOR SALARIES

Pub. L. 104–180, title VII, §726, Aug. 6, 1996, 110 Stat. 1600, provided that: “None of the funds made available in this Act [see Tables for classification] may be used to pay the salaries of employees of the Department of Agriculture who make payments pursuant to a production flexibility contract entered into under section 111 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 7 U.S.C. 7211) when it is made known to the Federal official having authority to obligate or expend such funds that the land covered by that production flexibility contract is not being used for the production of an agricultural commodity or is not devoted to a conserving use, unless it is also made known to that Federal official that the lack of agricultural production or the lack of a conserving use is a consequence of drought, flood, or other natural disaster.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7202, 7216 of this title.

§ 7212. Elements of contracts

(a) Time for contracting

(1) Commencement

To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after April 4, 1996.

(2) Deadline

Except as provided in paragraph (3), the Secretary may not enter into a contract after August 1, 1996.

(3) Conservation reserve lands

(A) In general

At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 3831 of title 16 that terminates after the date specified in paragraph (2) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(B) Amount

Contract payments made for contract acreage under this paragraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop. For the fiscal year in which the conservation reserve contract is terminated,

the owner or producer subject to the production flexibility contract may elect to receive either contract payments or a prorated payment under the conservation reserve contract, but not both.

(b) Duration of contract

(1) Beginning date

The term of a contract shall begin with—

(A) the 1996 crop of a contract commodity; or

(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3) of this section, the date the production flexibility contract was entered into or expanded to cover the acreage.

(2) Ending date

The term of a contract shall extend through the 2002 crop, unless earlier terminated by the owner or producer.

(c) Estimation of contract payments

At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(d) Time for payment

(1) In general

An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) Advance payments

(A) Fiscal year 1996

At the option of the owner or producer, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 30 days after the date on which the contract is entered into and approved by the Secretary and the owner or producer.

(B) Subsequent fiscal years

At the option of the owner or producer for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15 or January 15 of the fiscal year. The owner or producer may change the date selected under this subparagraph for a subsequent fiscal year by providing advance notice to the Secretary.

(3) Special rule

Notwithstanding the requirements for making an annual contract payment specified in paragraphs (1) and (2), at the option of the owner or producer, the Secretary shall pay the full amount (or such portion as the owner or producer may specify) of the contract payment required to be paid for any of fiscal years 1999 through 2002 at such time or times during that fiscal year as the owner or producer may specify.

(Pub. L. 104–127, title I, §112, Apr. 4, 1996, 110 Stat. 899; Pub. L. 105–228, §2, Aug. 12, 1998, 112 Stat. 1516; Pub. L. 106–78, title VIII, §811, Oct. 22, 1999, 113 Stat. 1181.)

AMENDMENTS

1999—Subsec. (d)(3). Pub. L. 106–78, in par. heading, struck out “for fiscal year 1999” after “rule” and, in

text, substituted “any of fiscal years 1999 through 2002” for “fiscal year 1999”.

1998—Subsec. (d)(3). Pub. L. 105-228 added par. (3).

PRODUCTION FLEXIBILITY CONTRACT PAYMENTS

Pub. L. 106-170, title V, § 525, Dec. 17, 1999, 113 Stat. 1928, provided that: “Any option to accelerate the receipt of any payment under a production flexibility contract which is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7200 [7201] et seq.), as in effect on the date of the enactment of this Act [Dec. 17, 1999], shall be disregarded in determining the taxable year for which such payment is properly includible in gross income for purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.]”

Pub. L. 105-277, div. J, title II, § 2012, Oct. 21, 1998, 112 Stat. 2681-902, provided that:

“(a) IN GENERAL.—The options under paragraphs (2) and (3) of section 112(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212(d)(2) and (3)), as in effect on the date of the enactment of this Act [Oct. 21, 1998], shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under subtitle B of title I of such Act [7 U.S.C. 7211 et seq.] (as so in effect) is properly includible in gross income for purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.]”

“(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after December 31, 1995.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7213. Amounts available for contract payments

(a) Fiscal year amounts

The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts:

- (1) For fiscal year 1996, \$5,570,000,000.
- (2) For fiscal year 1997, \$5,385,000,000.
- (3) For fiscal year 1998, \$5,800,000,000.
- (4) For fiscal year 1999, \$5,603,000,000.
- (5) For fiscal year 2000, \$5,130,000,000.
- (6) For fiscal year 2001, \$4,130,000,000.
- (7) For fiscal year 2002, \$4,008,000,000.

(b) Allocation

The amount made available for a fiscal year under subsection (a) of this section shall be allocated as follows:

- (1) For wheat, 26.26 percent.
- (2) For corn, 46.22 percent.
- (3) For grain sorghum, 5.11 percent.
- (4) For barley, 2.16 percent.
- (5) For oats, 0.15 percent.
- (6) For upland cotton, 11.63 percent.
- (7) For rice, 8.47 percent.

(c) Adjustment

The Secretary shall adjust the amounts allocated for each contract commodity under subsection (b) of this section for a particular fiscal year by—

- (1) adding an amount equal to the sum of all repayments of deficiency payments required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the commodity;
- (2) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under section 7216 of this title for the commodity; and
- (3) subtracting an amount equal to the amount, if any, necessary during that fiscal

year to satisfy payment requirements for the commodity under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

(d) Additional rice allocation

In addition to the adjustments required under subsection (c) of this section, the amount allocated under subsection (b) of this section for rice contract payments shall be increased by \$8,500,000 for each of fiscal years 1997 through 2002.

(e) Exclusion of certain amounts from contract payments

Any amount added pursuant to paragraphs (1) and (2) of subsection (c) of this section to the amount available under subsection (a) of this section for a fiscal year and paid to owners and producers under a contract shall not be treated as a contract payment for purposes of section 7215 of this title or section 1308(1) of this title. However, the amount of a payment covered by this subsection may not exceed \$50,000 per person.

(f) Effect of payment limitation

The amount available under subsection (a) of this section for a fiscal year shall be reduced by an amount equal to the total amount of contract payments for the fiscal year that owners and producers forgo as a result of operation of the payment limitation under section 1308(1) of this title.

(Pub. L. 104-127, title I, § 113, Apr. 4, 1996, 110 Stat. 900.)

REFERENCES IN TEXT

Sections 103B, 105B, and 107B of the Agricultural Act of 1949, referred to in subsec. (c)(3), were classified to sections 1444-2, 1444f, and 1445b-3a, respectively, of this title prior to repeal by section 7301(b)(2)(A)-(D) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7214, 7334 of this title.

§ 7214. Determination of contract payments under contracts

(a) Individual payment quantity of contract commodities

For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

- (1) 85 percent of the contract acreage; and
- (2) the farm program payment yield.

(b) Annual payment quantity of contract commodities

The payment quantity of each contract commodity covered by all contracts for each fiscal year shall be equal to the sum of the amounts calculated under subsection (a) of this section for each individual contract.

(c) Annual payment rate

The payment rate for a contract commodity for each fiscal year shall be equal to—

- (1) the amount made available under section 7213 of this title for the contract commodity for the fiscal year; divided by

- (2) the amount determined under subsection (b) of this section for the fiscal year.

(d) Annual payment amount

The amount to be paid under a contract in effect for each fiscal year with respect to all contract commodities covered by the contract shall be equal to the sum of the products of—

- (1) the payment quantity determined under subsection (a) of this section for each of the contract commodities covered by the contract; and
- (2) the corresponding payment rate for the contract commodity in effect under subsection (c) of this section.

(e) Reduction in payment amount

The contract payment determined under subsection (d) of this section for an owner or producer for a fiscal year shall be immediately reduced by the amount of any repayment of deficiency payments that is required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) and is not repaid as of the date the contract payment is determined. The Secretary shall be required to collect the required repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

(f) Assignment of contract payments

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to contract payments under this section. The owner or producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this subsection.

(g) Sharing of contract payments

The Secretary shall provide for the sharing of contract payments among the owners and producers subject to the contract on a fair and equitable basis.

(Pub. L. 104-127, title I, §114, Apr. 4, 1996, 110 Stat. 901.)

§ 7215. Applicability of payment limitations

Sections 1308 through 1308-3 of this title shall be applicable to contract payments made under this subchapter.

(Pub. L. 104-127, title I, §115(a), Apr. 4, 1996, 110 Stat. 902.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7213 of this title.

§ 7216. Violations of contract

(a) Termination of contract for violation

Except as provided in subsection (b) of this section, if an owner or producer subject to a contract violates a requirement of the contract specified in section 7211(a) of this title, the Secretary shall terminate the contract with respect to the owner or producer on each farm in which the owner or producer has an interest. On the termination, the owner or producer shall forfeit all rights to receive future contract payments on each farm in which the owner or producer has an interest and shall refund to the Secretary all

contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(b) Refund or adjustment

If the Secretary determines that a violation does not warrant termination of the contract under subsection (a) of this section, the Secretary may require the owner or producer subject to the contract—

- (1) to refund to the Secretary that part of the contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary; or
- (2) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(c) Foreclosure

(1) Effect of foreclosure

An owner or producer subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

(2) Resumption of operation

This subsection shall not void the responsibilities of the owner or producer under the contract if the owner or producer continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or producer, the provisions of the contract in effect on the date of the foreclosure shall apply.

(d) Review

A determination of the Secretary under this section shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

(Pub. L. 104-127, title I, §116, Apr. 4, 1996, 110 Stat. 903.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7213 of this title.

§ 7217. Transfer or change of interest in lands subject to contract

(a) Termination

Except as provided in subsection (c) of this section, a transfer of (or change in) the interest of an owner or producer subject to a contract in the contract acreage covered by the contract shall result in the termination of the contract with respect to the acreage, unless the transferee or owner of the acreage agrees to assume all obligations under the contract. The termination shall be effective on the date of the transfer or change.

(b) Modification

At the request of the transferee or owner, the Secretary may modify the contract if the modifications are consistent with the objectives of this subchapter, as determined by the Secretary.

(c) Exception

If an owner or producer who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(Pub. L. 104-127, title I, §117, Apr. 4, 1996, 110 Stat. 904.)

§ 7218. Planting flexibility**(a) Permitted crops**

Subject to subsection (b) of this section, any commodity or crop may be planted on contract acreage on a farm.

(b) Limitations and exceptions regarding fruits and vegetables**(1) Limitations**

The planting of fruits and vegetables (other than lentils, mung beans, and dry peas) shall be prohibited on contract acreage.

(2) Exceptions

Paragraph (1) shall not limit the planting of a fruit or vegetable—

(A) in any region in which there is a history of double-cropping of contract commodities with fruits or vegetables, as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting fruits or vegetables on contract acreage, except that a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable; or

(C) by a producer who the Secretary determines has an established planting history of a specific fruit or vegetable, except that—

(i) the quantity planted may not exceed the producer's average annual planting history of the fruit or vegetable in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable.

(Pub. L. 104-127, title I, §118, Apr. 4, 1996, 110 Stat. 904.)

CONTRACT PAYMENTS FOR WILD RICE ACREAGE

Pub. L. 106-78, title VII, §727, Oct. 22, 1999, 113 Stat. 1164, provided that: "None of the funds appropriated or otherwise available to the Department of Agriculture in fiscal year 2000 or thereafter may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice."

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 105-277, div. A, §101(a) [title VII, §727], Oct. 21, 1998, 112 Stat. 2681, 2681-28.

Pub. L. 105-86, title VII, §734, Nov. 18, 1997, 111 Stat. 2110.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

SUBCHAPTER III—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS**§ 7231. Availability of nonrecourse marketing assistance loans****(a) Nonrecourse loans available**

For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 7232 of this title for the loan commodity.

(b) Eligible production

The following production shall be eligible for a marketing assistance loan under subsection (a) of this section:

(1) In the case of a marketing assistance loan for a contract commodity, any production by a producer on a farm containing eligible cropland covered by a production flexibility contract.

(2) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(c) Compliance with conservation and wetlands requirements

As a condition of the receipt of a marketing assistance loan under subsection (a) of this section, the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(d) Additional outlays prohibited

The Secretary shall carry out this subchapter in such a manner that there are no additional outlays under this subchapter as a result of the reconstitution of a farm that occurs as a result of the combination of another farm that does not contain eligible cropland covered by a production flexibility contract.

(Pub. L. 104-127, title I, §131, Apr. 4, 1996, 110 Stat. 905.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (c), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 7232, 7233, 7234, 7235, 7237, 7286 of this title.

§ 7232. Loan rates for marketing assistance loans**(a) Wheat****(1) Loan rate**

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231 of this title for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than \$2.58 per bushel.

(2) Stocks to use ratio adjustment

If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(b) Feed grains

(1) Loan rate for corn

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231 of this title for corn shall be—

(A) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than \$1.89 per bushel.

(2) Stocks to use ratio adjustment

If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(A) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 12.5 percent, the Secretary may not reduce the loan rate for corn for the corresponding crop.

(3) Other feed grains

The loan rate for a marketing assistance loan under section 7231 of this title for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(c) Upland cotton

(1) Loan rate

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231

of this title for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling 1³/₃₂-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year preceding the year in which the crop is planted between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(2) Limitations

The loan rate for a marketing assistance loan for upland cotton shall not be less than \$0.50 per pound or more than \$0.5192 per pound.

(d) Extra long staple cotton

The loan rate for a marketing assistance loan under section 7231 of this title for extra long staple cotton shall be—

(1) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(2) not more than \$0.7965 per pound.

(e) Rice

The loan rate for a marketing assistance loan under section 7231 of this title for rice shall be \$6.50 per hundredweight.

(f) Oilseeds

(1) Soybeans

The loan rate for a marketing assistance loan under section 7231 of this title for soybeans shall be—

(A) not less than 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than \$4.92 or more than \$5.26 per bushel.

(2) Sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed

The loan rate for a marketing assistance loan under section 7231 of this title for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be—

(A) not less than 85 percent of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than \$0.087 or more than \$0.093 per pound.

(3) Other oilseeds

The loan rates for a marketing assistance loan under section 7231 of this title for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

(Pub. L. 104-127, title I, §132, Apr. 4, 1996, 110 Stat. 905.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 7231, 7234, 7235, 7236 of this title.

§ 7233. Term of loans

(a) Term of loan

In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under section 7231 of this title shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) Special rule for cotton

A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the month in which the loan is made.

(c) Extensions prohibited

The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

(Pub. L. 104-127, title I, §133, Apr. 4, 1996, 110 Stat. 907.)

§ 7234. Repayment of loans

(a) Repayment rates for wheat, feed grains, and oilseeds

The Secretary shall permit a producer to repay a marketing assistance loan under section 7231 of this title for wheat, corn, grain sorghum, barley, oats, and oilseeds at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(b) Repayment rates for upland cotton and rice

The Secretary shall permit producers to repay a marketing assistance loan under section 7231 of this title for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) Repayment rates for extra long staple cotton

Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary).

(d) Prevailing world market price

For purposes of this section and section 7236 of this title, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(e) Adjustment of prevailing world market price for upland cotton

(1) In general

During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) of this section shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 7232 of this title, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1³/₃₂-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1³/₃₂-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the “Northern Europe price”).

(2) Further adjustment

Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) Limitation on further adjustment

The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 $\frac{3}{32}$ -inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

(Pub. L. 104-127, title I, §134, Apr. 4, 1996, 110 Stat. 908.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7235 of this title.

§ 7235. Loan deficiency payments

(a) Availability of loan deficiency payments

Except as provided in subsection (d) of this section, the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under section 7231 of this title with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this section.

(b) Computation

A loan deficiency payment under this section shall be computed by multiplying—

(1) the loan payment rate determined under subsection (c) of this section for the loan commodity; by

(2) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this section.

(c) Loan payment rate

For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 7232 of this title for the loan commodity; exceeds

(2) the rate at which a loan for the commodity may be repaid under section 7234 of this title.

(d) Exception for extra long staple cotton

This section shall not apply with respect to extra long staple cotton.

(Pub. L. 104-127, title I, §135, Apr. 4, 1996, 110 Stat. 909.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

§ 7236. Special marketing loan provisions for upland cotton

(a) Cotton user marketing certificates

(1) Issuance

During the period ending July 31, 2003, the Secretary shall issue marketing certificates or

cash payments, at the option of the recipient, to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 134 percent of the loan rate for upland cotton established under section 7232 of this title.

(2) Value of certificates or payments

The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) Administration of marketing certificates

(A) Redemption, marketing, or exchange

The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) Designation of commodities and products

To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates.

(C) Transfers

Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(b) Special import quota

(1) Establishment

(A) In general

The President shall carry out an import quota program during the period ending July 31, 2003, as provided in this subsection.

(B) Program requirements

Except as provided in subparagraph (C), whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United

States growth, as quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under subsection (a) of this section, exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(C) Tight domestic supply

During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe, for the value of any certificates issued under subsection (a) of this section.

(D) Season-ending United States stocks-to-use ratio

For the purposes of making estimates under subparagraph (C), the Secretary shall, on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

(2) Quantity

The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(3) Application

The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) Overlap

A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c) of this section.

(5) Preferential tariff treatment

The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

- (A) section 2703(d) of title 19;
- (B) section 3203 of title 19;
- (C) section 2463(d) of title 19; and
- (D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) "Special import quota" defined

In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(7) Limitation

The quantity of cotton entered into the United States during any marketing year

under the special import quota established under this subsection may not exceed the equivalent of 5 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(c) Limited global import quota for upland cotton

(1) In general

The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) Quantity

The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) Quantity if prior quota

If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) Preferential tariff treatment

The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

- (i) section 2703(d) of title 19;
- (ii) section 3203 of title 19;
- (iii) section 2463(d) of title 19; and
- (iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) Definitions

In this subsection:

(i) Supply

The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

- (I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;
- (II) production of the current crop; and
- (III) imports to the latest date available during the marketing year.

(ii) Demand

The term "demand" means—

- (I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) Limited global import quota

The term “limited global import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) Quota entry period

When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) No overlap

Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b) of this section.

(Pub. L. 104-127, title I, §136, Apr. 4, 1996, 110 Stat. 909; Pub. L. 105-86, title VII, §731, Nov. 18, 1997, 111 Stat. 2108; Pub. L. 105-277, div. A, §101(a) [title VII, §762], Oct. 21, 1998, 112 Stat. 2681, 2681-36; Pub. L. 106-78, title VIII, §806, Oct. 22, 1999, 113 Stat. 1179.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in secs. (b)(5)(D) and (c)(1)(C)(iv), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106-78, §806(a)(1), substituted “or cash payments, at the option of the recipient,” for “or cash payments” in introductory provisions.

Subsec. (a)(1)(A), (2). Pub. L. 106-78, §806(a)(2), substituted “1.25 cents per pound” for “3 cents per pound”.

Subsec. (a)(3)(A). Pub. L. 106-78, §806(a)(3)(A), substituted “owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton” for “owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates” in first sentence.

Subsec. (a)(3)(B). Pub. L. 106-78, §806(a)(3)(B), struck out at end “If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.”

Subsec. (a)(4). Pub. L. 106-78, §806(a)(4), struck out heading and text of par. (4). Text read as follows: “Total expenditures under this subsection shall not exceed \$701,000,000 during fiscal years 1996 through 2002.”

Subsec. (b)(1). Pub. L. 106-78, §806(b)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1³/₃₂-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subsection (a) of this section, exceeds the Northern Europe price by more than 3 cents per pound, there shall immediately be in effect a special import quota.”

Subsec. (b)(7). Pub. L. 106-78, §806(b)(2), added par. (7). 1998—Subsecs. (a)(1)(A), (2), (b)(1). Pub. L. 105-277 substituted “3 cents” for “1.25 cents”.

1997—Subsec. (a)(1). Pub. L. 105-86, §731(1), in introductory provisions substituted “During” for “Subject to paragraph (4), during” and in subpar. (B) substituted “134” for “130”.

Subsec. (a)(4), (5). Pub. L. 105-86, §731(2), (3) redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: “The Secretary shall not issue marketing certificates or cash payments under paragraph (1) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1³/₃₂-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subsection, exceeds the Northern Europe price by more than 1.25 cents per pound.”

EFFECTIVE DATE OF 1997 AMENDMENT

Section 731 of Pub. L. 105-86 provided that the amendment made by that section is effective Oct. 1, 1998.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7234 of this title.

§ 7236a. Special competitive provisions for extra long staple cotton

(a) Competitiveness program

Notwithstanding any other provision of law, during the period beginning on October 1, 1999, and ending on July 31, 2003, the Secretary shall carry out a program to maintain and expand the domestic use of extra long staple cotton produced in the United States, to increase exports of extra long staple cotton produced in the United States, and to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) Payments under program; trigger

Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) Eligible recipients

The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States who enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) Payment amount

Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) of this section during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

(e) Form of payment

Payments under this section shall be made through the issuance of cash or marketing certificates, at the option of eligible recipients of the payments.

(Pub. L. 104-127, title I, § 136A, as added Pub. L. 106-113, div. B, § 1000(a)(5) [title I, § 104(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A-291.)

§ 7237. Availability of recourse loans for high moisture feed grains and seed cotton and other fibers

(a) High moisture feed grains**(1) Recourse loans available**

For each of the 1996 through 2002 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract who—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for

loans under this subsection within deadlines established by the Secretary.

(2) Eligibility of acquired feed grains

A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) "High moisture state" defined

In this subsection, the term "high moisture state" means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 7231 of this title.

(b) Recourse loans available for seed cotton**(1) Upland cotton**

For each of the 1996 through 2002 crops of upland cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract.

(2) Extra long staple cotton

For each of the 1996 through 2002 crops of extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) Recourse loans available for mohair**(1) Recourse loans available**

Notwithstanding any other provision of law, during fiscal year 1999, the Secretary shall make available recourse loans, as determined by the Secretary, to producers of mohair produced during or before that fiscal year.

(2) Loan rate

The loan rate for a loan under paragraph (1) shall be equal to \$2.00 per pound.

(3) Term of loan

A loan under paragraph (1) shall have a term of 1 year beginning on the first day of the first month after the month in which the loan is made.

(4) Waiver of interest

Notwithstanding subsection (d) of this section, the Secretary shall not charge interest on a loan made under paragraph (1).

(d) Repayment rates

Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (as determined by the Secretary).

(Pub. L. 104-127, title I, § 137, Apr. 4, 1996, 110 Stat. 912; Pub. L. 105-277, div. A, § 101(a) [title XI, § 1126], Oct. 21, 1998, 112 Stat. 2681, 2681-46.)

AMENDMENTS

1998—Pub. L. 105-277, §101(a) [title XI, §1126(1)], inserted “and other fibers” after “seed cotton” in section catchline.

Subsecs. (c), (d). Pub. L. 105-277, §101(a) [title XI, §1126(2), (3)], added subsec. (c) and redesignated former subsec. (c) as (d).

SUBCHAPTER IV—OTHER COMMODITIES

PART A—DAIRY

§ 7251. Milk price support program**(a) Support activities**

The Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) Rate

The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

- (1) During calendar year 1996, \$10.35.
- (2) During calendar year 1997, \$10.20.
- (3) During calendar year 1998, \$10.05.
- (4) During each of calendar years 1999 and 2000, \$9.90.

(c) Purchase prices

The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b) of this section.

(d) Special rule for butter and nonfat dry milk purchase prices**(1) Allocation of purchase prices**

The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5 shall not apply with respect to the implementation of this section.

(2) Timing of purchase price adjustments

The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) Refunds of 1995 and 1996 assessments**(1) Refund required**

The Secretary shall provide for a refund of the entire reduction required under section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)), as in effect on the day be-

fore the amendment made by subsection (g) of this section, in the price of milk received by a producer during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in calendar year 1995 or 1996 when compared to calendar year 1994 or 1995, respectively.

(2) Exception

This subsection shall not apply with respect to a producer for a particular calendar year if the producer has already received a refund under section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the effective date of this section.

(3) Treatment of refund

A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 3811 and 3821 of title 16.

(f) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) Omitted**(h) Period of effectiveness**

This section (other than subsection (g) of this section) shall be effective only during the period beginning on the first day of the first month beginning after April 4, 1996, and ending on December 31, 2000. The program authorized by this section shall terminate on December 31, 2000, and shall be considered to have expired notwithstanding section 907 of title 2.

(Pub. L. 104-127, title I, §141, Apr. 4, 1996, 110 Stat. 914; Pub. L. 106-78, title VIII, §807(a), Oct. 22, 1999, 113 Stat. 1181.)

REFERENCES IN TEXT

Section 204 of the Agricultural Act of 1949, referred to in subsec. (e)(1), (2), was classified to section 1446e of this title prior to repeal by subsec. (g) of this section. See Codification note below.

CODIFICATION

Section is comprised of section 141 of Pub. L. 104-127. Subsec. (g) of section 141 of Pub. L. 104-127 repealed section 1446e of this title and enacted provisions set out as a note under section 1446e of this title.

AMENDMENTS

1999—Subsec. (b)(4). Pub. L. 106-78, §807(a)(1), substituted “each of calendar years 1999 and 2000” for “calendar year 1999”.

Subsec. (h). Pub. L. 106-78, §807(a)(2), substituted “2000” for “1999” in two places.

§ 7252. Recourse loan program for commercial processors of dairy products**(a) Recourse loans available**

Under such reasonable terms and conditions as the Secretary may prescribe, the Secretary shall make recourse loans available to commercial processors of eligible dairy products to assist the processors to manage inventories of eligible dairy products and assure a greater degree of price stability for the dairy industry during the year. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(b) Amount of loan

The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect a milk equivalent value of \$9.90 per hundredweight of milk containing 3.67 percent butterfat. The rate of interest charged participants under this section shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

(c) Period of loan

The original term of a recourse loan made under this section may not extend beyond the end of the fiscal year in which the loan is made. At the end of the fiscal year, the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

(d) “Eligible dairy products” defined

In this section, the term “eligible dairy products” means cheddar cheese, butter, and nonfat dry milk.

(e) Effective date

This section shall be effective beginning January 1, 2001.

(Pub. L. 104-127, title I, §142, Apr. 4, 1996, 110 Stat. 915; Pub. L. 106-78, title VIII, §807(b), Oct. 22, 1999, 113 Stat. 1181.)

AMENDMENTS

1999—Subsec. (e). Pub. L. 106-78 substituted “2001” for “2000”.

§ 7253. Consolidation and reform of Federal milk marketing orders**(a) Amendment of orders****(1) Required consolidation**

The Secretary shall amend Federal milk marketing orders issued under section 608c of this title to limit the number of Federal milk marketing orders to not less than 10 and not more than 14 orders.

(2) Inclusion of California as separate order

Upon the petition and approval of California dairy producers in the manner provided in section 608c of this title, the Secretary shall designate the State of California as a separate Federal milk marketing order. The order covering California shall have the right to reblend and distribute order receipts to recognize quota value.

(3) Related issues addressed in consolidation

Among the issues the Secretary is authorized to implement as part of the consolidation of Federal milk marketing orders are the following:

(A) The use of utilization rates and multiple basing points for the pricing of fluid milk.

(B) The use of uniform multiple component pricing when developing 1 or more basic formula prices for manufacturing milk.

(4) Effect of existing law

In implementing the consolidation of Federal milk marketing orders and related reforms under this subsection, the Secretary may not consider, or base any decision on, the

table contained in section 608c(5)(A) of this title.

(b) Expedited process**(1) Use of informal rulemaking**

To implement the consolidation of Federal milk marketing orders and related reforms under subsection (a) of this section, the Secretary shall use the notice and comment procedures provided in section 553 of title 5.

(2) Time limitations**(A) Proposed amendments**

The Secretary shall announce the proposed amendments to be made under subsection (a) of this section not later than 2 years after April 4, 1996.

(B) Final amendments

The Secretary shall implement the amendments not later than 3 years after April 4, 1996.

(3) Effect of court order

The actions authorized by this subsection are intended to ensure the timely publication and implementation of new and amended Federal milk marketing orders. In the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a) of this section, the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

(c) Failure to timely consolidate orders

If the Secretary fails to implement the consolidation required under subsection (a)(1) of this section within the time period required under subsection (b)(2)(B) of this section (plus any additional period provided under subsection (b)(3) of this section), the Secretary may not assess or collect assessments from milk producers or handlers under such section 608c of this title for marketing order administration and services provided under such section after the end of that period until the consolidation is completed. The Secretary may not reduce the level of services provided under the section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

(d) Report regarding further reforms**(1) Report required**

Not later than April 1, 1997, the Secretary shall submit to Congress a report—

(A) reviewing the Federal milk marketing order system established pursuant to section 608c of this title in light of the reforms required by subsection (a) of this section;

(B) describing the efforts underway and the progress made in implementing the reforms required by subsection (a) of this section; and

(C) containing such recommendations as the Secretary considers appropriate for further improvements and reforms to the Federal milk marketing order system.

(2) Effect of other laws

Any limitation imposed by Act of Congress on the conduct or completion of reports to Congress shall not apply to the report required under this section, unless the limitation specifically refers to this section.

(Pub. L. 104-127, title I, §143, Apr. 4, 1996, 110 Stat. 915.)

USE OF OPTION 1A AS PRICE STRUCTURE FOR CLASS I MILK UNDER CONSOLIDATED FEDERAL MILK MARKETING ORDERS

Pub. L. 106-113, div. B, §1000(a)(8) [§1], Nov. 29, 1999, 113 Stat. 1536, 1501A-517, provided that:

“(a) FINAL RULE DEFINED.—In this section, the term ‘final rule’ means the final rule for the consolidation and reform of Federal milk marketing orders that was published in the Federal Register on September 1, 1999 (64 Fed. Reg. 47897-48021), to comply with section 143 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7253).

“(b) IMPLEMENTATION OF FINAL RULE FOR MILK ORDER REFORM.—Subject to subsection (c), the final rule shall take effect, and be implemented by the Secretary of Agriculture, on the first day of the first month beginning at least 30 days after the date of the enactment of this Act [Nov. 29, 1999].

“(c) USE OF OPTION 1A FOR PRICING CLASS I MILK.—In lieu of the Class I price differentials specified in the final rule, the Secretary of Agriculture shall price fluid or Class I milk under the Federal milk marketing orders using the Class I price differentials identified as Option 1A ‘Location-Specific Differentials Analysis’ in the proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802, 4809), except that the Secretary shall include the corrections and modifications to such Class I differentials made by the Secretary through April 2, 1999.

“(d) EFFECT OF PRIOR ANNOUNCEMENT OF MINIMUM PRICES.—If the Secretary of Agriculture announces minimum prices for milk under Federal milk marketing orders pursuant to section 1000.50 of title 7, Code of Federal Regulations, before the effective date specified in subsection (b), the minimum prices so announced before that date shall be the only applicable minimum prices under Federal milk marketing orders for the month or months for which the prices have been announced.

“(e) IMPLEMENTATION OF REQUIREMENT.—The implementation of the final rule, as modified by subsection (c), shall not be subject to any of the following:

“(1) The notice and hearing requirements of section 8c(3) of the Agricultural Adjustment Act (7 U.S.C. 608c(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, or the notice and comment provisions of section 553 of title 5, United States Code.

“(2) A referendum conducted by the Secretary of Agriculture pursuant to subsections (17) or (19) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

“(3) The Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking.

“(4) Chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act).

“(5) Any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this Act [Nov. 29, 1999].”

FURTHER RULEMAKING TO DEVELOP PRICING METHODS FOR CLASS III AND CLASS IV MILK UNDER MARKETING ORDERS

Pub. L. 106-113, div. B, §1000(a)(8) [§2], Nov. 29, 1999, 113 Stat. 1536, 1501A-518, provided that:

“(a) CONGRESSIONAL FINDING.—The Class III and Class IV milk pricing formulas included in the final decision for the consolidation and reform of Federal milk marketing orders, as published in the Federal Register on April 2, 1999 (64 Fed. Reg. 16025), do not adequately reflect public comment on the original proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802), and are sufficiently different from the proposed rule and any comments submitted with regard to the proposed rule that further emergency rulemaking is merited.

“(b) RULEMAKING REQUIRED.—The Secretary of Agriculture shall conduct rulemaking, on the record after an opportunity for an agency hearing, to reconsider the Class III and Class IV milk pricing formulas included in the final rule for the consolidation and reform of Federal milk marketing orders that was published in the Federal Register on September 1, 1999 (64 Fed. Reg. 47897-48021).

“(c) TIME PERIOD FOR RULEMAKING.—On December 1, 2000, the Secretary of Agriculture shall publish in the Federal Register a final decision on the Class III and Class IV milk pricing formulas. The resulting formulas shall take effect, and be implemented by the Secretary, on January 1, 2001.

“(d) EFFECT OF COURT ORDER.—The actions authorized by subsections (b) and (c) are intended to ensure the timely publication and implementation of new pricing formulas for Class III and Class IV milk. In the event that the Secretary of Agriculture is enjoined or otherwise restrained by a court order from implementing a final decision within the time period specified in subsection (c), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in subsection (c) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

“(e) FAILURE TO TIMELY COMPLETE RULEMAKING.—If the Secretary of Agriculture fails to implement new Class III and Class IV milk pricing formulas within the time period required under subsection (c) (plus any additional period provided under subsection (d)), the Secretary may not assess or collect assessments from milk producers or handlers under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, for marketing order administration and services provided under such section after the end of that period until the pricing formulas are implemented. The Secretary may not reduce the level of services provided under that section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

“(f) IMPLEMENTATION OF REQUIREMENT.—The implementation of the final decision on new Class III and Class IV milk pricing formulas shall not be subject to congressional review under chapter 8 of title 5, United States Code.”

§ 7254. Effect on fluid milk standards in State of California

Nothing in this Act or any other provision of law shall be construed to preempt, prohibit, or otherwise limit the authority of the State of California, directly or indirectly, to establish or continue to effect any law, regulation, or requirement regarding—

(1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or

(2) the labeling of such fluid milk products with regard to milk solids or solids not fat.

(Pub. L. 104-127, title I, §144, Apr. 4, 1996, 110 Stat. 917.)

§ 7255. Milk manufacturing marketing adjustment

(a) Maximum allowances established

No State shall provide for a manufacturing allowance for the processing of milk in excess of—

(1) \$1.65 per hundredweight of milk for milk manufactured into butter and nonfat dry milk; and

(2) \$1.80 per hundredweight of milk for milk manufactured into cheese.

(b) “Manufacturing allowance” defined

In this section, the term “manufacturing allowance” means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State’s yield and product price formulas exceeds the class price for the milk used to produce those products; or

(2) the amount by which the product price value of cheese manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State’s yield and product price formulas exceeds the class price for the milk used to produce cheese.

(c) Effect of violation

If the Secretary determines following a hearing that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a) of this section, the Secretary shall suspend purchases of cheddar cheese, butter, and nonfat dry milk produced in that State until such time as the State complies with such subsection.

(d) Effective date; implementation

This section (other than subsection (e)¹ of this section) shall be effective during the period beginning on the first day of the first month beginning after April 4, 1996, and ending on December 31, 1999. During that period, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

(Pub. L. 104-127, title I, §145, Apr. 4, 1996, 110 Stat. 917.)

CODIFICATION

Section is comprised of section 145 of Pub. L. 104-127. Subsec. (e) of section 145 of Pub. L. 104-127 repealed section 1446e-1 of this title and enacted provisions set out as a note under section 1446e-1 of this title.

§ 7256. Northeast Interstate Dairy Compact

Congress hereby consents to the Northeast Interstate Dairy Compact entered into among

the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont as specified in section 1(b) Senate Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(1) Finding of compelling public interest

Based upon a finding by the Secretary of a compelling public interest in the Compact region, the Secretary may grant the States that have ratified the Northeast Interstate Dairy Compact, as of April 4, 1996, the authority to implement the Northeast Interstate Dairy Compact.

(2) Limitation on manufacturing price

The Northeast Interstate Dairy Compact Commission shall not regulate Class II, Class III, or Class III-A milk used for manufacturing purposes or any other milk, other than Class I (fluid) milk, as defined by a Federal milk marketing order issued under section 608c of this title.

(3) Duration

Consent for the Northeast Interstate Dairy Compact shall terminate on September 30, 2001.

(4) Additional States

Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia are the only additional States that may join the Northeast Interstate Dairy Compact, individually or otherwise, if upon entry the State is contiguous to a participating State and if Congress consents to the entry of the State into the Compact after April 4, 1996.

(5) Compensation of Commodity Credit Corporation

Before the end of each fiscal year that a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the projected rate of increase in milk production for the fiscal year within the Compact region in excess of the projected national average rate of the increase in milk production, as determined by the Secretary.

(6) Milk marketing order Administrator

At the request of the Northeast Interstate Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order issued under section 608c(5)¹ of this title shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(7) Further conditions

The Northeast Interstate Dairy Compact Commission shall not prohibit or in any way limit the marketing in the Compact region of any milk or milk product produced in any other production area in the United States. The Compact Commission shall respect and abide by the ongoing procedures between Fed-

¹ See Codification note below.

¹ See References in Text note below.

eral milk marketing orders with respect to the sharing of proceeds from sales within the Compact region of bulk milk, packaged milk, or producer milk originating from outside of the Compact region. The Compact Commission shall not use compensatory payments under section 10(6) of the Compact as a barrier to the entry of milk into the Compact region or for any other purpose. Establishment of a Compact over-order price, in itself, shall not be considered a compensatory payment or a limitation or prohibition on the marketing of milk.

(Pub. L. 104-127, title I, §147, Apr. 4, 1996, 110 Stat. 919; Pub. L. 106-113, div. B, §1000(a)(8) [§4], Nov. 29, 1999, 113 Stat. 1536, 1501A-520.)

REFERENCES IN TEXT

Senate Joint Resolution 28 of the 104th Congress, referred to in text, which would have granted consent of the Congress to the Northeast Interstate Dairy Compact, was not enacted into law during the 104th Congress.

Section 608c(5) of this title, referred to in par. (6), was in the original “section 8(c)5 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937,” which was translated as meaning section 8c(5) of the Agricultural Adjustment Act, to reflect the probable intent of Congress.

AMENDMENTS

1999—Par. (3). Pub. L. 106-113 substituted “on September 30, 2001.” for “concurrent with the Secretary’s implementation of the dairy pricing and Federal milk marketing order consolidation and reforms under section 7253 of this title.”

§ 7257. Authority to assist in establishment and maintenance of one or more export trading companies

The Secretary of Agriculture shall, consistent with the obligations of the United States as a member of the World Trade Organization, provide such advice and assistance to the United States dairy industry as may be necessary to enable that industry to establish and maintain one or more export trading companies under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States.

(Pub. L. 104-127, title I, §149, Apr. 4, 1996, 110 Stat. 921.)

REFERENCES IN TEXT

The Export Trading Company Act of 1982, referred to in text, is title I of Pub. L. 97-290, Oct. 8, 1982, 96 Stat. 1233, as amended, which is classified generally to subchapter I (§4001 et seq.) of chapter 66 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 15 and Tables.

§ 7258. Standby authority to indicate entity best suited to provide international market development and export services

(a) Indication of entity best suited to assist international market development for and export of United States dairy products

The Secretary of Agriculture shall indicate which entity or entities autonomous of the Gov-

ernment of the United States, which seeks such a designation, is best suited to facilitate the international market development for and exportation of United States dairy products, if the Secretary determines that—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for an exportation of dairy products produced in the United States on or before June 30, 1997; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1998 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 by 1.5 billion pounds (milk equivalent, total solids basis).

(b) Funding of export activities

The Secretary shall assist the entity or entities identified under subsection (a) of this section in identifying sources of funding for the activities specified in subsection (a) of this section from within the dairy industry and elsewhere.

(c) Application of section

This section shall apply only during the period beginning on July 1, 1997 and ending on September 30, 2000.

(Pub. L. 104-127, title I, §150, Apr. 4, 1996, 110 Stat. 921.)

REFERENCES IN TEXT

The Export Trading Company Act of 1982, referred to in subsec. (a)(1), is title I of Pub. L. 97-290, Oct. 8, 1982, 96 Stat. 1233, as amended, which is classified generally to subchapter I (§4001 et seq.) of chapter 66 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 15 and Tables.

§ 7259. Study and report regarding potential impact of Uruguay Round on prices, income, and government purchases

(a) Study

The Secretary of Agriculture shall conduct a study, on a variety by variety of cheese basis, to determine the potential impact on milk prices in the United States, dairy producer income, and Federal dairy program costs, of the allocation of additional cheese granted access to the United States as a result of the obligations of the United States as a member of the World Trade Organization.

(b) Report

Not later than June 30, 1997, the Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of the study conducted under this section.

(c) Rule of construction

Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section, unless the limitation specifically refers to this section.

(Pub. L. 104-127, title I, §151, Apr. 4, 1996, 110 Stat. 922.)

PART B—PEANUTS AND SUGAR

§ 7271. Peanut program**(a) Quota peanuts****(1) Availability of loans**

The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(2) Loan rate

The national average quota loan rate for quota peanuts shall be \$610 per ton.

(3) Inspection, handling, or storage

The loan amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage.

(4) Location and other factors

The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 7282 of this title.

(5) Offers from handlers

If a producer markets a quota peanut crop, meeting quality requirements for domestic edible use, through the marketing association loan for two consecutive marketing years and the Secretary determines that a handler provided the producer with a written offer, upon delivery, for the purchase of the quota peanut crops at a price equal to or in excess of the quota support price, the producer shall be ineligible for quota price support for the next marketing year. The Secretary shall establish the method by which a producer may appeal a determination under this paragraph regarding ineligibility for quota price support.

(b) Additional peanuts**(1) In general**

Subject to paragraph (2), the Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) Limitation

The Secretary shall establish the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

(3) Announcement

The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) Area marketing associations**(1) Warehouse storage loans****(A) In general**

In carrying out subsections (a) and (b) of this section, the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations

(January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 1359a of this title.

(B) Administrative and supervisory activities

An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 1359a of this title.

(C) Association costs

Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 1359a of this title.

(2) Pools for quota and additional peanuts**(A) In general**

The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico.

(B) Eligibility to participate in New Mexico pools**(i) In general**

Except as provided in clause (ii), in the case of the 1996 and subsequent crops, Valencia peanuts not physically produced in the State of New Mexico shall not be eligible to participate in the pools of the State.

(ii) Exception

A producer of Valencia peanuts may enter Valencia peanuts that are produced in Texas into the pools of New Mexico in a quantity not greater than the average annual quantity of the peanuts that the producer entered into the New Mexico pools for the 1990 through 1995 crops.

(C) Types of peanuts

Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(D) Net gains

Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) Quota peanuts

For quota peanuts, the net gains over and above the loan indebtedness and other

costs or losses incurred on peanuts placed in the pool.

(ii) Additional peanuts

For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) Losses

Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) Transfers from additional loan pools

The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 1358-1(b)(8) of this title.

(2) Producers in same pool

Further losses in an area quota pool shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and edible export use.

(3) Offset within area

Further losses in an area quota pool shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) of this section for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation in that area and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(4) First use of marketing assessments

The Secretary shall use funds collected under subsection (g) of this section (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) of this section and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(5) Cross compliance

Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 1358-1(b)(8) of this title, shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) of this section for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(6) Offset generally

If losses in an area quota pool have not been entirely offset under the preceding paragraphs, further losses shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) of this section for Valencia peanuts produced in New Mexico) owned or

controlled by the Commodity Credit Corporation and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(7) Second use of marketing assessments

The Secretary shall use funds collected under subsection (g) of this section and attributable to handlers to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) of this section and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(8) Increased assessments

If use of the authorities provided in the preceding paragraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment for producers established under subsection (g) of this section by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts in the production area covered by the pool. Amounts collected under subsection (g) of this section as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.

(e) Disapproval of quotas

Notwithstanding any other provision of law, no loan for quota peanuts may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 1358-1(d) of this title.

(f) Quality improvement

(1) In general

With respect to peanuts under loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department loan schedule.

(2) Exports and other peanuts

The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) Marketing assessment**(1) In general**

The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for each of the 1997 through 2002 crops, of the national average quota or additional peanut loan rate for the applicable crop.

(2) First purchasers**(A) In general**

Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

(II) in the case of the 1996 crop, .6 percent of the applicable national average loan rate; and

(III) in the case of each of the 1997 through 2002 crops, .65 percent of the applicable national average loan rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) “First purchaser” defined

In this subsection, the term “first purchaser” means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) Other private marketings

In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) Loan peanuts

In the case of peanuts that are pledged as collateral for a loan made under this section, the producer portion of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes

of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) Penalties

If any person fails to collect or remit the reduction required by this subsection or fails to comply with the requirements for record-keeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut rate for the applicable crop year.

(6) Enforcement

The Secretary may enforce this subsection in the courts of the United States.

(h) Crops

Subsections (a) through (g) of this section shall be effective only for the 1996 through 2002 crops of peanuts.

(Pub. L. 104-127, title I, §155, Apr. 4, 1996, 110 Stat. 922.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, referred to in subsec. (f)(1)(C), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

CODIFICATION

Section is comprised of section 155 of Pub. L. 104-127. Subsec. (i) of section 155 of Pub. L. 104-127 amended sections 1358-1, 1358b, 1358c, and 1359a of this title.

§ 7272. Sugar program**(a) Sugarcane**

The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) Sugar beets

The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) Reduction in loan rates**(1) Reduction required**

The Secretary shall reduce the loan rate specified in subsection (a) of this section for domestically grown sugarcane and subsection (b) of this section for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

(2) Extent of reduction

The Secretary shall not reduce the loan rate under subsection (a) or (b) of this section

below a rate that provides an equal measure of support to that provided by other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

(3) Announcement of reduction

The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

(4) Definitions

In this subsection:

(A) Agreement on Agriculture

The term “Agreement on Agriculture” means the Agreement on Agriculture referred to in section 3511(d)(2) of title 19.

(B) Major sugar countries

The term “major sugar growing, producing, and exporting countries” means—

- (i) the countries of the European Union; and
- (ii) the 10 foreign countries not covered by subparagraph (A)¹ that the Secretary determines produce the greatest quantity of sugar.

(d) Term of loans

(1) In general

A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

- (A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or
- (B) the end of the fiscal year in which the loan is made.

(2) Supplemental loans

In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

- (A) be made at the loan rate in effect at the time the second loan is made; and
- (B) mature in 9 months less the quantity of time that the first loan was in effect.

(e) Loan type; processor assurances

(1) Recourse loans

Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) Nonrecourse loans

During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) Processor assurances

If the Secretary is required under paragraph (2) to make nonrecourse loans available during

a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(f) Marketing assessment

(1) Sugarcane

Effective for marketings of raw cane sugar during the 1996 through 2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) of this section per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) of this section per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

(2) Sugar beets

Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) of this section per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) of this section per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(3) Collection

(A) Timing

A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each month. Any cane sugar or beet sugar processed dur-

¹ So in original. Probably should be “clause (i)”.

ing a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) Manner

Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) Penalties

If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(5) Enforcement

The Secretary may enforce this subsection in a court of the United States.

(g) Forfeiture penalty

(1) In general

A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a non-recourse loan under this section.

(2) Cane sugar

The penalty for cane sugar shall be 1 cent per pound.

(3) Beet sugar

The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

(4) Effect of forfeiture

Any payments owed producers by a processor that forfeits any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

(h) Information reporting

(1) Duty of processors and refiners to report

A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) Penalty

Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than \$10,000 for each such violation.

(3) Monthly reports

Taking into consideration the information received under paragraph (1), the Secretary

shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

(i) Crops

This section (other than subsection (f) of this section) shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

(Pub. L. 104-127, title I, §156, Apr. 4, 1996, 110 Stat. 931.)

SUBCHAPTER V—ADMINISTRATION

§ 7281. Administration

(a) Use of Commodity Credit Corporation

The Secretary shall carry out this chapter through the Commodity Credit Corporation.

(b) Omitted

(c) Determinations by Secretary

A determination made by the Secretary under this chapter shall be final and conclusive.

(d) Regulations

Not later than 90 days after April 4, 1996, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this chapter. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly know¹ as the “Paperwork Reduction Act”).

(Pub. L. 104-127, title I, §161, Apr. 4, 1996, 110 Stat. 934.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 7201 of this title.

CODIFICATION

Section is comprised of section 161 of Pub. L. 104-127. Subsec. (b) of section 161 of Pub. L. 104-127 amended sections 714b, 714i, and 714k of Title 15, Commerce and Trade.

§ 7282. Adjustments of loans

(a) Adjustment authority

The Secretary may make appropriate adjustments in the loan rates for any commodity for differences in grade, type, quality, location, and other factors.

(b) Manner of adjustment

The adjustments under the authority of this section shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this chapter.

¹ So in original. Probably should be “known”.

(c) Adjustment on county basis

The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest such rate being 95 percent of the national average loan rate, except that such action shall not result in an increase in outlays. Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

(Pub. L. 104-127, title I, §162, Apr. 4, 1996, 110 Stat. 935.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (b), see note set out under section 7201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7271 of this title.

§ 7283. Commodity Credit Corporation interest rate

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

(Pub. L. 104-127, title I, §163, Apr. 4, 1996, 110 Stat. 935.)

§ 7284. Personal liability of producers for deficiencies**(a) In general**

Except as provided in subsection (b) of this section, no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this chapter unless the loan was obtained through a fraudulent representation by the producer.

(b) Limitations

Subsection (a) of this section shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

- (1) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;
- (2) a failure to properly care for and preserve a commodity; or
- (3) a failure or refusal to deliver a commodity in accordance with a program established under this chapter.

(c) Acquisition of collateral

In the case of a nonrecourse loan made under this chapter or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), if the Commodity Credit Corporation acquires title to the unredeemed collateral, the Corporation shall be under no obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

(d) Sugarcane and sugar beets

A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of

sugarcane or sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

(Pub. L. 104-127, title I, §164, Apr. 4, 1996, 110 Stat. 935.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 7201 of this title.

The Commodity Credit Corporation Charter Act, referred to in subsec. (c), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of title 15 and Tables.

§ 7285. Commodity Credit Corporation sales price restrictions**(a) General sales authority**

The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

(b) Nonapplication of sales price restrictions

Subsection (a) of this section shall not apply to—

- (1) a sale for a new or byproduct use;
- (2) a sale of peanuts or oilseeds for the extraction of oil;
- (3) a sale for seed or feed if the sale will not substantially impair any loan program;
- (4) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;
- (5) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;
- (6) a sale for export, as determined by the Corporation; and
- (7) a sale for other than a primary use.

(c) Presidential disaster areas**(1) In general**

Notwithstanding subsection (a) of this section, on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(A) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(B) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Costs

Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under paragraph (1) beyond the cost of the commodity to the Corporation incurred in—

(A) the storage of the commodity; and

(B) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

(d) Efficient operations

Subsection (a) of this section shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity involved, or because of the age, location, or questionable continued storability of the commodity.

(Pub. L. 104-127, title I, §165, Apr. 4, 1996, 110 Stat. 936.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (c)(1)(B), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

§ 7286. Commodity certificates**(a) In general**

In making in-kind payments under subchapter III of this chapter, the Commodity Credit Corporation may—

(1) acquire and use commodities that have been pledged to the Commodity Credit Corporation as collateral for loans made by the Corporation;

(2) use other commodities owned by the Commodity Credit Corporation; and

(3) redeem negotiable marketing certificates for cash under terms and conditions established by the Secretary.

(b) Methods of payment

The Commodity Credit Corporation may make in-kind payments—

(1) by delivery of the commodity at a warehouse or other similar facility;

(2) by the transfer of negotiable warehouse receipts;

(3) by the issuance of negotiable certificates, which the Commodity Credit Corporation shall exchange for a commodity owned or controlled by the Corporation in accordance with regulations promulgated by the Corporation; or

(4) by such other methods as the Commodity Credit Corporation determines appropriate to promote the efficient, equitable, and expeditious receipt of the in-kind payments so that a person receiving the payments receives the same total return as if the payments had been made in cash.

(c) Administration**(1) Form**

At the option of a producer, the Commodity Credit Corporation shall make negotiable cer-

tificates authorized under subsection (b)(3) of this section available to the producer, in the form of program payments or by sale, in a manner that the Corporation determines will encourage the orderly marketing of commodities pledged as collateral for loans made to producers under subchapter III of this chapter.

(2) Transfer

A negotiable certificate issued in accordance with this subsection may be transferred to another person in accordance with regulations promulgated by the Secretary.

(Pub. L. 104-127, title I, §166, as added Pub. L. 106-78, title VIII, §812, Oct. 22, 1999, 113 Stat. 1181.)

SUBCHAPTER VI—PERMANENT PRICE
SUPPORT AUTHORITY**§ 7301. Suspension and repeal of permanent price support authority****(a) Agricultural Adjustment Act of 1938****(1) Suspensions**

The following provisions of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.] shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on April 4, 1996, and ending on December 31, 2002:

(A) Parts II through V of subtitle B of title III (7 U.S.C. 1326-1351) [7 U.S.C. 1321 et seq., 1331 et seq., 1341 et seq., 1351].

(B) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(C) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(D) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(E) Part VII of subtitle B of title III (7 U.S.C. 1359aa-1359jj).

(F) In the case of peanuts, part I of subtitle C of title III (7 U.S.C. 1361-1368).

(G) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(H) Subtitle D of title III (7 U.S.C. 1379a-1379j).

(I) Title IV (7 U.S.C. 1401-1407).

(2) Omitted**(b) Agricultural Act of 1949****(1) Suspensions**

The following provisions of the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on April 4, 1996, and ending on December 31, 2002:

(A) Section 101 (7 U.S.C. 1441).

(B) Section 103(a) (7 U.S.C. 1444(a)).

(C) Section 105 (7 U.S.C. 1444b).

(D) Section 107 (7 U.S.C. 1445a).

(E) Section 110 (7 U.S.C. 1445e).

(F) Section 112 (7 U.S.C. 1445g).

(G) Section 115 (7 U.S.C. 1445k).

(H) Section 201 (7 U.S.C. 1446).

(I) Title III (7 U.S.C. 1447-1449).

(J) Title IV (7 U.S.C. 1421-1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

- (K) Title V (7 U.S.C. 1461–1469).
- (L) Title VI (7 U.S.C. 1471–1471j).

(2) Repeals

The following provisions of the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] are repealed:

- (A) Section 101B (7 U.S.C. 1441–2).
- (B) Section 103B (7 U.S.C. 1444–2).
- (C) Section 105B (7 U.S.C. 1444f).
- (D) Section 107B [7 U.S.C. 1445b–3a].
- (E) Section 108B (7 U.S.C. 1445c–3).
- (F) Section 113 (7 U.S.C. 1445h).
- (G) Subsections (b) and (c) of section 114 (7 U.S.C. 1445j).
- (H) Sections 205, 206, and 207 (7 U.S.C. 1446f, 1446g, and 1446h).
- (I) Sections 406 and 427 (7 U.S.C. 1426 and 1433f).

(3) Omitted

(c) Suspension of certain quota provisions

Section 1340 of this title shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(Pub. L. 104–127, title I, §171, Apr. 4, 1996, 110 Stat. 937.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in subsec. (a)(1), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. Parts II through V and VII of subtitle B of title III of the Act are classified generally to subparts II (§1321 et seq.), III (§1331 et seq.), IV (§1341 et seq.), V (§1351, which was omitted from the Code), and VII (§1359aa et seq.), respectively, of part B of subchapter II of chapter 35 of this title. Part I of subtitle C of title III of the Act is classified generally to subpart I (§1361 et seq.) of part C of subchapter II of chapter 35 of this title. Subtitle D of title III of the Act is classified generally to part D (§1379a et seq.) of subchapter II of chapter 35 of this title. Title IV of the Act was classified generally to subchapter III (§1401 et seq.) of chapter 35 of this title, and was omitted from the Code. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (b)(1), (2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. Title III of the Act is classified generally to sections 1447 to 1449 of this title. Title IV of the Act is classified principally to subchapter I (§1421 et seq.) of chapter 35A of this title. Title V of the Act, which was classified generally to subchapter IV (§1461 et seq.) of chapter 35A of this title, was omitted from the Code. Title VI of the Act is classified generally to subchapter V (§1471 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section is comprised of section 171 of Pub. L. 104–127. Subsec. (a)(2) of section 171 of Pub. L. 104–127 amended section 1373 of this title and enacted provisions set out as a note under section 1373 of this title. Subsec. (b)(3) of section 171 of Pub. L. 104–127 amended section 1441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7202 of this title; title 2 section 907.

§ 7302. Effect of chapter

(a) Effect on prior crops

Except as otherwise specifically provided in this chapter and notwithstanding any other pro-

vision of law, this chapter and the amendments made by this chapter shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before April 4, 1996.

(b) Liability

A provision of this chapter or an amendment made by this chapter shall not affect the liability of any person under any provision of law as in effect before April 4, 1996.

(Pub. L. 104–127, title I, §172, Apr. 4, 1996, 110 Stat. 938.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 7201 of this title.

SUBCHAPTER VII—COMMISSION ON 21ST CENTURY PRODUCTION AGRICULTURE

§ 7311. Establishment

There is established a commission to be known as the “Commission on 21st Century Production Agriculture” (in this subchapter referred to as the “Commission”).

(Pub. L. 104–127, title I, §181, Apr. 4, 1996, 110 Stat. 938.)

§ 7312. Composition

(a) Membership and appointment

The Commission shall be composed of 11 members, appointed as follows:

(1) Three members shall be appointed by the President.

(2) Four members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives in consultation with the ranking minority member of the Committee.

(3) Four members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate in consultation with the ranking minority member of the Committee.

(b) Qualifications

At least 1 of the members appointed under each of paragraphs (1), (2), and (3) of subsection (a) of this section shall be an individual who is primarily involved in production agriculture. All other members of the Commission shall be appointed from among individuals having knowledge and experience in agricultural production, marketing, finance, or trade.

(c) Term of members; vacancies

A member of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) Time for appointment; first meeting

The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this subchapter 30 days after 6 members of the Commission have been appointed.

(e) Chairperson

The chairperson of the Commission shall be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

(Pub. L. 104-127, title I, §182, Apr. 4, 1996, 110 Stat. 938.)

§ 7313. Comprehensive review of past and future of production agriculture**(a) Initial review**

The Commission shall conduct a comprehensive review of changes in the condition of production agriculture in the United States since April 4, 1996, and the extent to which the changes are the result of this chapter and the amendments made by this chapter. The review shall include the following:

(1) An assessment of the initial success of production flexibility contracts in supporting the economic viability of farming in the United States.

(2) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(3) An assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief.

(4) An assessment of the changes in farmland values and agricultural producer incomes since April 4, 1996.

(5) An assessment of the extent to which regulatory relief for agricultural producers has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations.

(6) An assessment of the extent to which tax relief for agricultural producers has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high- and low-income years.

(7) An assessment of the effect of any Federal Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements and United States export programs.

(8) An assessment of the likely effect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

(b) Subsequent review

The Commission shall conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include the following:

(1) An assessment of changes in the condition of production agriculture in the United States since the initial review conducted under subsection (a) of this section.

(2) Identification of the appropriate future relationship of the Federal Government with production agriculture after 2002.

(3) An assessment of the personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

(4) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(c) Recommendations

In carrying out the subsequent review under subsection (b) of this section, the Commission shall develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2) of this section.

(Pub. L. 104-127, title I, §183, Apr. 4, 1996, 110 Stat. 939.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (a), see note set out under section 7201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7314 of this title.

§ 7314. Reports**(a) Report on initial review**

Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 7313(a) of this title.

(b) Report on subsequent review

Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) of this section a report containing the results of the subsequent review conducted under section 7313(b) of this title.

(Pub. L. 104-127, title I, §184, Apr. 4, 1996, 110 Stat. 940.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7318 of this title.

§ 7315. Powers**(a) Hearings**

The Commission may, for the purpose of carrying out this subchapter, conduct such hearings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) Assistance from other agencies

The Commission may secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out its duties under this subchapter. On the request of the chairperson of the Commission, the head of the department or agency shall, to the extent per-

mitted by law, furnish such information to the Commission.

(c) Mail

The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(d) Assistance from Secretary

The Secretary shall provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

(Pub. L. 104-127, title I, §185, Apr. 4, 1996, 110 Stat. 940.)

§ 7316. Commission procedures

(a) Meetings

The Commission shall meet on a regular basis (as determined by the chairperson) and at the call of the chairperson or a majority of its members.

(b) Quorum

A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(Pub. L. 104-127, title I, §186, Apr. 4, 1996, 110 Stat. 941.)

§ 7317. Personnel matters

(a) Compensation

Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, when engaged in the performance of Commission duties.

(b) Staff

(1) Appointment

The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this subchapter without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates.

(2) Limitation on compensation

No employee appointed under this subsection (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level GS-15 of the General Schedule.

(c) Detailed personnel

On the request of the chairperson of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of the department or agency to the Commission to

assist the Commission in carrying out its duties under this section. The detail of any individual may not result in the interruption or loss of civil service status or other privilege of the individual.

(Pub. L. 104-127, title I, §187, Apr. 4, 1996, 110 Stat. 941.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (b), is set out under section 5332 of Title 5.

§ 7318. Termination of Commission

The Commission shall terminate on submission of the final report required by section 7314 of this title.

(Pub. L. 104-127, title I, §188, Apr. 4, 1996, 110 Stat. 941.)

SUBCHAPTER VIII—MISCELLANEOUS
COMMODITY PROVISIONS

§ 7331. Options pilot program

(a) Pilot programs authorized

Until December 31, 2002, the Secretary of Agriculture may conduct a pilot program for 1 or more agricultural commodities supported under this chapter to ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of the commodities. The pilot program shall be an alternative to other related programs of the Department of Agriculture.

(b) Distribution of pilot program

For each agricultural commodity included in the pilot program, the Secretary may operate the pilot program in not more than 100 counties, except that not more than 6 of the counties may be located in any 1 State. The pilot program for a commodity shall not be operated in any county for more than 3 of the 1996 through 2002 calendar years.

(c) Eligible participants

In operating the pilot program, the Secretary may enter into contract with a producer who—

- (1) is eligible for a production flexibility contract, a marketing assistance loan, or other assistance under this chapter;
- (2) volunteers to participate in the pilot program;
- (3) operates a farm located in a county selected for the pilot program; and
- (4) meets such other eligibility requirements as the Secretary may establish.

(d) Notice to producers

The Secretary shall provide notice to each producer participating in the pilot program that—

- (1) the participation of the producer is voluntary; and
- (2) neither the United States, the Commodity Credit Corporation, the Federal Crop In-

insurance Corporation, the Department of Agriculture, nor any other Federal agency is authorized to guarantee that participants in the pilot program will be better or worse off financially as a result of participation in the pilot program than the producer would have been if the producer had not participated in the pilot program.

(e) Contracts

The Secretary shall set forth in each contract under the pilot program the terms and conditions for participation in the pilot program and the notice required by subsection (d) of this section.

(f) Eligible markets

Trades for futures and options contracts under the pilot program shall be carried out on commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(g) Recordkeeping

A producer participating in the pilot program shall compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the pilot program require.

(h) Use of Commodity Credit Corporation

The Secretary shall fund and operate the pilot program through the Commodity Credit Corporation. To the maximum extent practicable, the Secretary shall operate the pilot program in a budget neutral manner.

(Pub. L. 104-127, title I, §191, Apr. 4, 1996, 110 Stat. 941.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (c)(1), see note set out under section 7201 of this title.

The Commodity Exchange Act, referred to in subsec. (f), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section is comprised of section 191 of Pub. L. 104-127. Subsec. (i) of section 191 of Pub. L. 104-127 repealed provisions set out as a note under section 1421 of this title.

§ 7332. Risk management education

In consultation with the Commodity Futures Trading Commission, the Secretary shall provide such education in management of the financial risks inherent in the production and marketing of agricultural commodities as the Secretary considers appropriate. As part of such educational activities, the Secretary may develop and implement programs to facilitate the participation of agricultural producers in commodity futures trading programs, forward contracting options, and insurance protection programs by assisting and training producers in the usage of such programs. In implementing this authority, the Secretary may use existing research and extension authorities and resources of the Department of Agriculture.

(Pub. L. 104-127, title I, §192, Apr. 4, 1996, 110 Stat. 942.)

§ 7333. Administration and operation of non-insured crop assistance program

(a) Operation and administration of program

(1) In general

In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 1508(b) of this title. The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the “Agency”).

(2) Eligible crops

(A) In general

In this section, the term “eligible crop” means each commercial crop or other agricultural commodity (except livestock)—

- (i) for which catastrophic risk protection under section 1508(b) of this title is not available; and
- (ii) that is produced for food or fiber.

(B) Crops specifically included

The term “eligible crop” shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops.

(3) Cause of loss

To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

(b) Application for noninsured crop disaster assistance

(1) Timely application

To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Secretary may require.

(2) Records

A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.

(3) Acreage reports

A producer shall provide reports on acreage planted or prevented from being planted, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) Loss requirements

(1) Required area loss

A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Secretary.

(2) Prevented planting

Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop

disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(3) Reduced yields

Subject to paragraph (1), the Secretary shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Secretary, factored for the interest of the producer for the crop.

(d) Payment

The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

(i) harvested;

(ii) planted but not harvested; and

(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, as determined by the Secretary.

(e) Yield determinations

(1) Establishment

The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) Actual production history

The Secretary shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) Assignment of yield

If a producer does not submit adequate documentation of production history to determine

a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

(4) Prohibition on assigned yields in certain counties

(A) In general

(i) Documentation

If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) Prohibition

Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) Exception

A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

(5) Limitation on receipt of subsequent assigned yield

A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) Yield variations due to different farming practices

The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) Contract payments

A producer who has received a guaranteed payment for production, as opposed to delivery,

of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) Use of Commodity Credit Corporation

The Secretary may use the funds of the Commodity Credit Corporation to carry out this section.

(h) Exclusions

Noninsured crop disaster assistance under this section shall not cover losses due to—

- (1) the neglect or malfeasance of the producer;
- (2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or
- (3) the failure of the producer to follow good farming practices, as determined by the Secretary.

(i) Payment and income limitations

(1) Definitions

In this subsection:

(A) Person

The term “person” has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1308 of this title.

(B) Qualifying gross revenues

The term “qualifying gross revenues” means—

- (i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and
- (ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) Payment limitation

The total amount of payments that a person shall be entitled to receive annually under this section may not exceed \$100,000.

(3) Limitation on multiple benefits for same loss

(A) In general

Except as provided in subparagraph (B), if a producer who is eligible to receive benefits under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this section or under the other program, but not both.

(B) Exception

Subparagraph (A) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(4) Income limitation

A person who has qualifying gross revenues in excess of the amount specified in section

2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) Regulations

The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1308 of this title, the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(Pub. L. 104-127, title I, §196, Apr. 4, 1996, 110 Stat. 947; Pub. L. 105-277, div. A, §101(a) [title VIII, §803(b)], Oct. 21, 1998, 112 Stat. 2681, 2681-38.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in subsec. (i)(3)(B), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended. Subtitle C of the Act is classified generally to subchapter III (§1961 et seq.) of chapter 50 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

Section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (i)(4), is section 2266(a) of Pub. L. 101-624, which was set out in a note under section 1421 of this title, prior to repeal by Pub. L. 103-354, title I, §119(c), Oct. 13, 1994, 108 Stat. 3208.

CODIFICATION

Section is comprised of section 196 of Pub. L. 104-127. Subsec. (j) of section 196 of Pub. L. 104-127 repealed section 1519 of this title.

AMENDMENTS

1998—Subsec. (i)(3). Pub. L. 105-277 designated existing provisions as subpar. (A), inserted heading, substituted “Except as provided in subparagraph (B), if a producer” for “If a producer”, and added subpar. (B).

§ 7334. Flood risk reduction

(a) In general

During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the “Secretary”) may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] that is frequently flooded.

(b) Duties of producers

Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

- (1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.];
- (2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;
- (3) not apply for crop insurance issued or re-insured by the Secretary;
- (4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) Duties of Secretary

In return for a contract entered into by a producer under this section, the Secretary shall pay the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

(d) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section (other than subsection (e) of this section) through the Commodity Credit Corporation.

(e) Additional payments

(1) In general

Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a) of this section, in addition to the payments provided under subsection (c) of this section, to offset other estimated Federal Government outlays on frequently flooded land.

(2) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) Limitation on payments

Amounts made available for production flexibility contracts under section 7213 of this title shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

(Pub. L. 104-127, title III, §385, Apr. 4, 1996, 110 Stat. 1016.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsecs. (a), (b)(1), and (c), is title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (b)(4), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the “Sodbuster Law”, is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of title III of the Federal Agriculture Improvement and Reform Act of 1996, and not as part of title I of the Act, known as the Agricultural Market Transition Act, which comprises this chapter.

CHAPTER 101—AGRICULTURAL PROMOTION

SUBCHAPTER I—COMMODITY PROMOTION AND EVALUATION

- Sec.
7401. Commodity promotion and evaluation.
 (a) “Commodity promotion law” defined.
 (b) Findings.
 (c) Independent evaluation of promotion program effectiveness.
 (d) Administrative costs.

SUBCHAPTER II—ISSUANCE OF ORDERS FOR PROMOTION, RESEARCH, AND INFORMATION ACTIVITIES REGARDING AGRICULTURAL COMMODITIES

7411. Findings and purpose.
 (a) Findings.
 (b) Purpose.
 (c) Rule of construction.
7412. Definitions.
7413. Issuance of orders.
 (a) Issuance authorized.
 (b) Procedure for issuance.
 (c) Issuance and effective date.
 (d) Amendments.
7414. Required terms in orders.
 (a) In general.
 (b) Board.
 (c) Powers and duties of board.
 (d) Prohibited activities.
 (e) Activities and budgets.
 (f) Contracts and agreements.
 (g) Records of board.
 (h) Periodic evaluation.
 (i) Books and records of persons covered by order.
7415. Permissive terms in orders.
 (a) Exemptions.
 (b) Different payment and reporting schedules.
 (c) Activities.
 (d) Reserve funds.
 (e) Credits.
 (f) Assessment of imports.
 (g) Other authority.
7416. Assessments.
 (a) Assessments authorized.
 (b) Collection.
 (c) Limitation on assessments.
 (d) Assessment rates.
 (e) Late-payment and interest charges.
 (f) Investment of assessments.
 (g) Refund of assessments from escrow account.
7417. Referenda.
 (a) Initial referendum.
 (b) Required referenda.
 (c) Subsequent referenda.
 (d) Other referenda.
 (e) Approval of order.
 (f) Costs of referenda.
 (g) Manner of conducting referenda.
7418. Petition and review of orders.
 (a) Petition.
 (b) Review.
 (c) Effect on enforcement proceedings.
7419. Enforcement.
 (a) Jurisdiction.
 (b) Referral to Attorney General.
 (c) Civil penalties and orders.
 (d) Review by court of appeals.
 (e) Failure to obey cease-and-desist orders.
 (f) Failure to pay penalties.
 (g) Additional remedies.
7420. Investigations and power to subpoena.
 (a) Investigations.
 (b) Subpoenas, oaths, and affirmations.